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SENTENCED TO SEPARATION: AN EXPLORATION OF THE NEEDS AND PROBLEMS OF MOTHERS WHO ARE OFFENDERS AND THEIR CHILDREN

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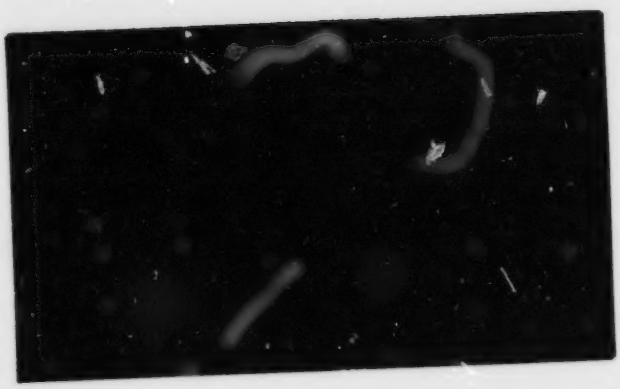

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SENTENCED TO SEPARATION: AN EXPLORATION OF THE NEEDS AND PROBLEMS OF MOTHERS WHO ARE OFFENDERS AND THEIR CHILDREN

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This working paper is available in French. Ce document de travail est disponible en français.

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SENTENCED TO SEPARATION

A. INTRODUCTION

The children of offenders are invisible and powerless victims of our criminal justice system. They are frequently forgotten in a system which is concerned officially with individuals and their potential responsibility for criminal acts. While many criminal justice officials may take discretionary interest in the problems of the offenders' families, no-one in the criminal justice system has official responsibility for the children of offenders. The needs of these children and of offenders in their roles as parents are often overlooked in the business of seeing that criminal justice is done.

The needs of these children, in most cases, are not forgotten by their parents. Accused and convicted offenders do not cease being parents when they come into contact with the criminal justice system. The state may take the legal responsibility for their children away from these parents while they are involved with the criminal justice system, but the state can't take away their emotional commitment. Nevertheless, taking responsibility for a criminal act currently means for many offenders being sentenced to separation from their children.

a. Purpose of This Report:

The purpose of this paper is threefold.

1. The first purpose is to summarize the very limited knowledge we have available concerning female inmates and their children.
2. The second purpose is to stimulate interest in the problems of these families and the programs needed to address these problems.
3. The final purpose is to identify major research issues which could be explored to provide answers to the myriad of questions raised in the paper.

This brief report explores some of the potential ramifications for offenders, their children, the criminal justice system and for society as a whole of criminal justice policies and programs which to a large extent are planned and executed without full consideration of their effects on the families of offenders. This paper looks at the complexities of this issue, and asks: can the criminal justice system more effectively fulfill its goals to protect society and ensure fairness by encouraging more contact between offenders and their children? Can programs which minimize the separation between offenders and their children assist in the rehabilitation of offenders? Can such programs even promote crime prevention by reducing the

recidivism of parents who are offenders and by increasing the respect of their children for the criminal justice system?

b. Limitations of the Report

Regrettably, this report suffers from three major limitations:

1. The paper raises questions, but can give few answers. It is an exploratory look at a very controversial, complex and emotional subject which is of increasing interest to a wide range of criminal justice officials, community workers and members of the general public. It is the product of an extremely brief but wide-ranging survey of complex and controversial issues. As a result, it does not deal exhaustively with any one issue, but is an attempt to stimulate reflection and to identify the major issues which could be addressed in more comprehensive investigations of this subject.
2. The information currently available is often fragmentary, speculative and biased. There are few hard facts and there is a dearth of objective studies. These problems will be discussed in greater depth in a following section. Much of the information summarized therefore is necessarily unscientific and emotional.

The biases presented should not be seen as those of the author but rather as an attempt to present the flavour and the substance of available information.

The one bias which is readily acknowledged by the author and which permeates much of the report is the assumption that a wide range of non-incarcerative options would be available for non-violent offenders whether or not they are parents and whether they are male or female.

3. The third limitation of the report is its exclusive focus on female inmates and their children. Issues relating to family separation of course apply both to male and female offenders who are parents. However, this paper was prepared for a research program designed to develop a better understanding of female offenders. Accordingly, the discussion which follows will focus on the particular problems of female offenders and their children as well as on the system response to their problems. This focus should not be construed as an attempt to minimize or divert attention from the very real problems of many male offenders and their families. The author recognizes that an increasing number of fathers are heading single parent families and that more fathers are seeking a very active level of involvement with their children. Nonetheless, the literature does suggest that a high proportion of female offenders are single parents and despite role

changes in our society, that women still have primary responsibility for children. Accordingly, questions surrounding the separation of inmates and their children may be especially poignant and pressing for the female offenders in Canada.

c. How Information Was Collected for This Report

Information for this paper was collected through extensive library research and also through telephone and personal contact with a number of provincial and federal criminal justice officials as well as community workers concerned with female offenders. Any ommissions, inaccuracies or misunderstandings arising through these informal conversations are the sole responsibility of the author and do not reflect the quality of information provided so generously by those who helped familiarize me with the particular situation of female offenders and their children in Canada.

B. WHAT DO WE CURRENTLY KNOW ABOUT MOTHERS WHO ARE OFFENDERS AND THEIR CHILDREN?

a. Some Problems with Existing Research Statistics

Statistics on mothers who are offenders and their children in Canada, are virtually non-existent. While the Canadian Center for Justice Statistics is currently attempting to collect and amalgamate comprehensive

statistics on female offenders, at present there are no national and no known provincial Canadian statistics on the number, characteristics and problems of mothers who are offenders as well as the numbers, ages, living arrangements and adjustment experiences of their children.

Even available research data should be treated with some scepticism for a number of reasons.

1. Existing published statistics deal almost entirely with an incarcerated population and therefore give little or no measure of the vast majority of offender mothers who are not incarcerated and their children. While some services and officials may keep internal data on the family status of non-incarcerated offenders, this information either is not tabulated or is not widely shared.
2. Many researchers in an attempt to ensure a stable research sample throughout the duration of their study, and in some cases to ensure that follow-up information can be collected, choose only subjects who will be incarcerated for several months or more. As a result, offenders with longer sentences, who we might surmise could be the women most likely to have relinquished custody of their children are over-represented in the study samples.

3. Research shows that some women are reluctant to talk about their children or even to admit to their existence for fear that their children will be made permanent wards of the state. Although we have no concrete figures on the number of women who share this fear, reported experiences of researchers and practitioners suggest that they represent a significant proportion of mothers who are offenders.
4. Informal conversations with ex-offenders and community workers who deal with female offenders suggest that, most offenders have not made arrangements for their children's care prior to arrest. In some cases, particularly if the woman's crime is linked to alcohol or drug addiction, the woman may have made arrangements to put her children in the temporary custody of friends or relatives before her arrest if her addiction or lifestyle interfered with her ability to care for her children. Therefore, when she is asked upon incarceration if her children were living with her prior to her arrest, she may answer negatively, even though she had been primarily responsible for her children in the past.
5. Many studies available have employed extremely small samples.

6. As a result of uneven standards of research design, existing findings were found to have varying levels of reliability and validity.
7. Due to the emotional content of the subject matter, some studies may have been heavily morally biased and therefore may have used narrow definitions for measures regarding previous living arrangements of the mother and her children or regarding the type of relationship which exists or existed between the mother and her children.
8. A lack of reliable published data on recidivism means that we cannot always determine the true number of children whose mothers are incarcerated or detained in any one year. That is, figures available may include some of the same mothers and children more than once if the mothers were detained or sentenced to two or more periods of incarceration in one year.
9. Generally, the limited official data available in a compiled form reflect the different definitions and data collection systems of the multiple jurisdictions responsible for female offenders. As a result data suffer from inconsistency and limited comparability.

Despite these caveats, from the few studies which have been done in Canada on the family relationships of small samples of female offenders, combined with more comprehensive studies done in other countries, we can make

some exploratory calculations and some educated speculations about mothers who are offenders and their children. We can also buttress these findings with data on female offenders more generally and with our knowledge of the changing situation of women in Canada by extrapolating the more global characteristics of women to our target offender population.

Since there are virtually no statistics on non-incarcerated female offenders who are mothers (who probably make up the majority of mothers who come before the criminal justice system) this brief statistical and research overview regrettably will be restricted almost entirely to information on female inmates. The special problems and characteristics of non-incarcerated female offenders who are mothers and the differences between those who are detained on remand and those who are never in a prison or jail, as well as the problems of those mothers on some form of release from prison, will be alluded to where information exists. These problems will also be referred to again in the last section of this paper dealing with research priorities.

b. <u>A Snapshot of the Female Offender in Canada</u>

Given the dearth of statistics on mothers who are offenders in Canada, any description of this special group

of offenders will have to be built on a more general portrait of the female offender.

The statistics available on the female offender reveal a population of primarily non-violent offenders. In 1983, 30% of all women charged under the Criminal Code, were charged with shoplifting. If we add to that figure, the percentage of all female offenders charged with theft over $200, theft under $200 and fraud, we find that 46% of female offenders - almost half, in 1983 were charged with nonviolent property offences.(1) Another 24% were charged with offences under the liquor act.(2) Therefore, at least 70% of all women charged in 1983 under the Criminal Code, were charged with offences which did not involve violence. These statistics suggest that the majority of female offenders pose little or no threat to society at large. These facts have led other researchers to suggest that "in terms of their socio-economic circumstances and their needs for services and programs, female offenders appear to have more in common with other women, particularly disadvantaged women then they do with male offenders".(3)

c. <u>How Many Mothers are Incarcerated in Canada?</u>

The American literature on this subject estimates that between 50 and 70% of incarcerated women have one or more dependent children who were living with them prior to their imprisonment.(4) Canadian, British and Australian

researchers are slightly more conservative, and suggest that while 50 to 70% of the female inmate population had borne children, only between 30% to 40$ were actually caring for their children at the time of their incarceration.(5) Further, one Canadian study found that 4% of the incarcerated women in their sample were pregnant, as were 7% of the probationers, and that the majority of both groups of women planned to keep their babies.(6) American researchers estimate that between 7% to 13% of women admitted to prison are pregnant.(7)

In 1983/84, approximately 9,082 women were admitted under sentence to provincial facilities in Canada, and in 1984, 226 women were incarcerated under federal sentence, 143 to the Prison for Women and 83 to provincial institutions.(8) Unfortunately, because we don't have detailed information on recidivism, we can't establish an accurate count of the number of different women involved. However, excluding those women admitted to provincial institutions under federal sentence to avoid one source of double counting, there were a total of about 9,225 admissions to correctional institutions in 1983/84.(9)

Based on round figures, and the most conservative percentages of women estimated in the research available to be pregnant, to have borne children, or to have dependent children, we can tentatively estimate that in 1983, 360

women (4% of 9,000) admitted to a correctional institution were pregnant, 4,500 women (50%) had borne children, and 2,700 women (30%) had been living with their children prior to incarceration.

d. How Many Children are Indirectly Affected by their Mothers' Imprisonment?

Again, there are no firm statistics on the number and ages of the children of female offenders, but a rough amalgamation of Canadian, American, British, and Australian studies available, suggests that incarcerated mothers on average have at least 2 children(10), of which about 40% are of preschool age(11) and another 30% are between five and ten years of age.(12)

Based on these percentages and our previous numerical estimates that 2,700 women with dependent children were sentenced to incarceration in 1983/84, the mothers of at least 5,400 children were admitted to a correctional facility in 1983/84. It is likely that 2,160 of these children were preschoolers and another 1,620 were between the ages of five and ten. In addition, another 360 newborn babies were affected by criminal justice decisions to incarcerate their mothers in 1983/84.

e. Are These Numbers Growing?

It is likely that since 1983/84, these numbers have grown and will continue to grow for three reasons.

1. The number of women (as well as men) charged with criminal offences has increased slightly over the last decade.(13) This increase is also reflected in an increased number of women incarcerated under federal sentence. Between 1975 and 1985, the number of female federal inmates grew from 173 to 235, even though the percent of federal inmates who were female remained relatively constant at about 2%.(14)
2. Although census-based statistics on fertility rates are not yet available for the 1980's, popular knowledge suggest that fertility rates, particularly for women in their teens and in their 30's have been increasing in the last five years. Therefore the potential number of inmates who are pregnant or have very young children is likely to be increasing. Anecdotal reports from officials in correctional institutions, residences and from community workers support this surmise, and make reference to the potential increase in health problems with which criminal justice and health officials may have to deal if the number of pregnant inmates in these "highrisk" groups does grow significantly. A recent presentation made by the Toronto Elizabeth Fry

Society to the Second World Congress on Prison Health also made reference to the number of female inmates who are pregnant on admission to institutions.(15) The data from U.S. studies also indicate a recent increase in the number of children per woman inmate.(16)

3. The number of single parents in Canada has been increasing and therefore the number of female inmates who have the sole responsibility for young children is likely to be growing. Between 1971 and 1981, the number of female-headed single parent families grew from 370,820 to 589,435.(17) In addition, one comparative study of male and female admittees to several pretrial programs did find that women were faced with far greater demands than were men to support themselves and dependents.(18) As early as 1980, this point was made by the Canadian Advisory Council on the Status of Women (CACSW) in a brief presented to the Strategic Planning Committee on the future of the Correctional Service of Canada. In identifying its concerns the CACSW stated: "The number of single-parent families will increase and the size of families will decrease. These two trends will combine to increase the importance of family ties for the woman prisoner and for her child or children. Women prisoners will therefore be more likely to expect and

demand that the corrections system take greater responsibility for the maintenance of family ties."(19)

f. How Long are Most Inmate Mothers Incarcerated?

Between 1975 and 1984, 7.3% of women under federal sentence were sentenced to 20 years to life or to an indefinite sentence, and 28% of women had aggregate sentences of five years or more.(20)

Despite the relatively long sentences of approximately one third of the female federal offenders, 86.4% of offenders were released in less than three years and 29.5% of female offenders were released in under one year.(21)

While the average length of time served by inmates in provincial institutions is not well documented at present, by definition provincial inmates have received a sentence of under two years. Over half (57.6%) of all women admitted to Ontario correctional institutions in 1984/85 under sentence were sentenced to less than 30 days.(22)

The relatively short sentences served by the majority of female inmates may be construed by some to indicate that the problem of separation of incarcerated mothers from their children is not a crucial one. Research suggests that, to the contrary, even a thirty day separation can seem an eternity to a young child, particularly if he or she is placed in an unfamiliar

situation or does not know the whereabouts of his or her mother. Any separation, with the confusion and uncertainty it can bring can seem a significant sentence to a child and to a concerned mother.

g. Child Welfare Legislation and Its Potential Effect on the Incarcerated Mother and Her Children

The most frequent accusation levied against inmate mothers is that they are "unfit", simply by virtue of being offenders. Growing concern for the rights of children, legislated through the provincial child welfare acts, has encouraged an often justified focus on the adequacy and "fitness" of parents or guardians. Adequacy and "fitness" are operationally defined in provincial child welfare acts in terms of the absence of abuse or neglect of children. The passage of these provincial acts, and our expanding knowledge of child abuse and neglect, have alerted us to the effects of psychological as well as physical abuse and neglect, and have increased our general sensitivity to the potentially detrimental effects of separation through incarceration or other circumstances.

The complex nature of abuse and neglect is reflected in the multifaceted definitions included in provincial legislation. Most provincial child welfare acts include two separate conditions of neglect which could be applied

to find a parent unfit as a result of separation through incarceration and its accompanying "stigma". These are: first, deprivation of affection and second, conditions in which "his life, health or morals are endagered by conduct of persons in whose charge he is".(23) Newfoundland also explicitly includes as neglected, "a child whose parents have abandoned his care to another and allowed him to be brought up at that person's expense under unsatisfactory conditions, whose parents, or surviving parent or guardian cannot by reason of misfortune, disease or infirmity, properly care for him or are not fit to raise him or refuse to raise him."(24)

The importance of our child welfare acts and of the wide-spread concern for the future of young Canadians is undeniable. However there is a danger in this concerted focus on abuse and particularly on neglect for the incarcerated mother. An objective definition of neglect is difficult to establish and can therefore be influenced easily by moral and socio-economic positions. Further, because these definitions focus on the child, they can be applied in such a way that situational variables and cultural differences can be misconstrued as evidence of willful neglect. Thus, attempts to discern if a child is neglected under provincial child welfare acts may increase unfairly the tendency to assume that in committing a crime

the female offender intentionally neglected her maternal responsibilities and so should be deemed unfit. In fact, there is no research known to this author that would support this assumption.

Regardless, court decisions in the U.S. have tended to assume that the mother's criminal act was a "voluntary relinquishment of her parental rights" (In Jameson 1967 U.S.). While such blatant precedents do not exist to this author's knowledge in Canadian law, Higgs reports one case, Children's Aid Society of the City of Kingston and H and G (1979) which dealt with the issue of whether incarceration constituted desertion. "Although the Court accepted the argument that, in this instance, the subjective element of desertion was missing, they found desertion to be objective so that the mother, by virtue of her incarceration could be said to have created a situation of constructive desertion",(25) meaning that it gave the court the opportunity to sever the natural parents' custody rights. While the decision may well have been justified in this particular case where both parents were incarcerated, the mother as a repeat offender and other children had been removed from her custody; the court showed a bias against the natural parents by accepting "oral evidence of other past custody hearings against the mother without requiring written evidence, not calling on the mother to take the

stand in her defense, not considering the possibility of the father assuming custody and accepting expert witness testimony on 'bonding' by a psychologist who had not assessed either parent."(26)

In general, court precedent reveals that when the parents' rights and the childrens' rights are in apparent conflict, the welfare of the child is given priority. Another example cited by Higgs is the 1973 case of Regina vs Plummer in which the British Columbia Supreme Court "gave its understanding of the term 'abandoned' ...saying that it was used ...not so much in the sense of a moral condemnation of the parent, but rather as an important factor in the welfare of the child".(27)

The potential to find an incarcerated parent unfit, simply by virtue of incarceration seems to exist in the legislation. While the rights of the child are apparently protected by legislation, this legislation, because it does not deal with the specific problems and type of separation created by incarceration, has the potential to become a tool to discriminate unfairly against an incarcerated parent and therby to threaten the emotional and physical security of the child. The case of Reginal vs Whitecap (1980) 2 Sask. R. 429, although not concerned with separation by incarceration, established two important principles which could guide legal decisions towards a more

fair and sensitive resolution of custody concerns in cases involving incarcerated parents and their children. First it established that "the rights to emotional security, to education, to sound custody decisions and to meaningful visitation with a separated or divorced parent reflect a certain level of cultural development of a country". Second, it protected the rights of the parents by holding them to a standard of care no higher than that within their means. "Much so-called parental neglect is not an act, or a failure to act, on the part of the parents, but an occurrence traceable to community tradition or a lack of resources".(28)

While the primary focus on the child's rights is generally laudable, the focus on the child's rights to the exclusion of the parents' interests and concerns can create decisions which ultimately discriminate against both the parent and the child. These decisions can ignore the important emotional link between a parent and child in the attempt to provide a physically and financially secure lifestyle.

This conclusion should not of course be used to imply that the mother-child bond is inalienable at the expense of the child's welfare. There is some inconclusive evidence that mothers who are offenders are likely to have lost custody or given up one or more of their children.

One study done in Ontario, found that over half of the incarcerates and 43% of the probationers have had some type of involvement with the Children's Aid Society through adoption, wardship or counselling services. They also found that two thirds of the incarcerated mothers were separated from at least one of their children and 45% didn't live with any of their children before they were incarcerated. Even 18% of the mothers on probation in this study did not live with any of their children.(29) However, as Sue Mahan cautions: "It is difficult to define an unfit mother. If we consider unfit mothers to be women who do not care for their children, we will find that these prisoners care deeply for their children. If on the other hand we consider unfit mothers to be those who are unable to provide for the wellbeing of their children, then we will see that these women are indeed unfit".(3)

The basis of women's inability to care for their children stems not only from incarceration but from their socio-economic situation. Rogers and Carey found that "permanent separation from their children cannot be attributed to the incarceration process itself. Women with no prior incarcerations were just as likely to be living apart from their children as women who had been incarcerated previously."(31) Other studies also conclude that estrangement from children and criminal activity are

often only two indicators of severe social and financial instability.(32)

C. WHAT IS THE COST OF INCARCERATING THE MOTHERS OF DEPENDENT CHILDREN?

a. Financial Cost

Quickness to judge female offenders as "unfit" mothers and so to put the question of the child's custody in the hands of the state, may not always take into account the economic and social costs of our decisions. In 1979, it cost $6,877 to support a child in a foster home and $12,866 in a group home.(33) In the same year, the cost to subsidize a single parent and her child through provincial social assistance was only $4,860.(34) Therefore, in 1979, if the woman were given a nonincarcerative sentence, even if she were unable to work outside her home, the state would save between $2,000 and $6,000 in child care assistance. More recent unofficial estimates suggest that the gap between the cost of foster care in a private home and the cost of welfare subsidies for a single parent and one child may be narrowing. However when the cost of incarceration, estimated at between $50,000 and $64,000 for a federal inmate(35) is added, it is indisputable that an incarcerative option is aproximately ten times more

expensive than the cost of supporting a mother and child in the community.

Beyond these financial costs, what of social costs?

b. The Social Costs of Incarceration for Inmate Mothers

The available research strongly emphasizes the importance of the mother-child relationship to many female inmates and the effect of this relationship on their ability to respond constructively to their time in prison. For these women, the costs of incarceration and the resulting separation from their children may be very high.

Of course, in any discussion of female inmates, it must be remembered that we are not speaking of a homogeneous group of women. While it is tempting to romanticize the mother-child bond, community and criminal justice workers who deal with female offenders remind us that not all inmates who are mothers feel they have a positive relationship with their children. Not all are interested in maintaining contact with their children or in ultimately assuming total parental responsbility for them. An increased emphasis on the mother-child relationship for these women could be experienced as yet another example of the criminal justice system attempting to assert its power to mould the inmates into roles which the women reject. As one example: "X has no plans to reclaim her child or her

two other children who now live with her mother. X does not want to settle down. 'I like doing drugs. I like being able to party with whomever I want to. They try to tell you you don't like it.'"(36) For these women, even an effort to keep the children with a member of the offender's extended family may be seen as a form of subtle coercion to assume parental responsibility in the future. Further, leaving the children with a relative may delay the necessity for some mothers to take responsibility for making a firm decision concerning the care and the futures of their children.

However, for many female inmates, the maternal role is central to their self-image, to their plans for the future, to their ability to adjust to prison life and to the potential success of training and rehabilitation programs for these inmates. "Women convicted of a criminal offence often report that separation from children is experienced as the most traumatic element of imprisonment, eclipsing even the loss of liberty".(37)

Studies generally show that women feel despondent and guilty that their own behaviour had created the situation.(38) "Although these women care deeply about their children, they are deprived of the role of mothering and some may lose the identity altogether. This is a major

loss. It deprives many convicted women of the opportunity for creating a meaningful life".(39)

Many of these women come to prison or jail with a multitude of unresolved practical problems concerning the custody, health, schooling, and psychological adjustment of their children, which preoccupies them throughout their incarceration.(40) Many women are plagued by the fear that they will lose custody of their children permanently, that their children will stop caring about them, and that the foster or substitute caregiver will replace them in their children's affections.(41) They also fear for their children's safety in foster or alternate care arrangements, express particular concern about physical and sexual abuse and worry that their children will themselves come into conflict with the law.(42)

These concerns for their children are exaggerated by the woman's feeling of impotence to resolve these problems while she is institutionalized. The women in one study described their one greatest cause of tension as being the sheer frustration at their inability to deal personally with any of their children's problems while they were imprisoned.(43) Researchers also report that concern over their children may preoccupy female inmates so much that they cannot generate any interest in vocational training or plan realistically for their futures.(44)

There is some evidence that parental concern and pain at being separated from their children is most acutely felt by mothers over thirty-five and by mothers of infants, particularly if they are single parents.(45) The literature on bonding between mothers and infants is far from conclusive and concentrates on the effects of early mother-child separation on the infant. However, Howieson and Regehr (1984) found mothers of infants so psychologically distraught by the separation that they were excluded from the sample because they were so difficult to interview.(46) There is also some evidence that the physical and psychological distress new mothers experience when separated from their babies is very significant.

In addition to these groups, the mothers who are most anxious about their child(ren)'s welfare are those who had little or no control over where their children were placed. These were more likely to be women whose children were placed with "strangers" in foster care.(47)

Intermittent contact in person or by phone with their children does appear to alleviate some of the anxiety of many female inmates, but may aggravate the pain of separation. A typical dilemma of mothers in prison described in many studies is the experience of being torn

between their desire to see their children and the pain of seeing them go. Women also speak of the humiliation of letting their children see them in prison.(48)

The woman's ambivalence concerning sporadic visits with her children while in prison, may not detract from her resolve to make her children a concrete part of her future. The role of mother is often the only positive link female inmates have to a realistic and constructive future life. "Despite their past economic and emotional struggles, mother remained a role commonly cherished by the ...convicted women. The nurturant role of mother had provided them with one real source of identity in a society which deprived them of access to most of the other rewarded roles in society."(49)

The strong link between children and the future plans of female inmates is also indicated by the fact that most women planned to reunite with their children following incarceration, regardless of the length of time until parole eligibility.(50) These plans are not always realistic, but do give the women incentive to work towards creating a positive future with their children.

The amount and quality of contact the inmate has with her children and the amount of preparation and training the inmate receives to enable her to combine the frequently conflicting demands of parenting, employment and

other roles in a real-life situation, can greatly affect her actual ability to take responsibility for their children once she is released. The availability of a variety of training, counselling and information courses, focussing not just on the woman's parenting role but on employment skills and practical information concerning housing, welfare, child care and other support services can assist the woman in making more realistic plans.

The availability of such courses and frequent contact with her children is particularly important because the discrepancy between the past reality of her life and her hopes for the future is frequently pronounced and results in the inmate conjuring up an idealized notion of motherhood(51). This notion is rarely borne out in her post-release experiences with her children. In readjusting to children following release, mothers in several studies spoke of the strain of dealing with their own problems following release combined with the burden of coping with the inevitable psychological problems of their children. In one study, 15% of the women in the sample, many of whom had been incarcerated for more than two years, said that simply relating to children after minimal contact for so long would be difficult".(52) These psychological problems were generally compounded by financial and housing difficulties.

c. The Social Costs for the Children of their Mother's Incarceration

The effects of separation on the child will vary greatly with the child's age, temperament and health, the quality of the relationship between mother and child, the quality of the relationship with the alternate caregiver(s), the physical quality of the temporary living situation, the length of separation, the amount and quality of contact between mother and child throughout her incarceration and the general amount of disruption in the child's life. Many of these factors are extremely subjective and therefore difficult to assess.

As commonsense would suggest, there is evidence that the adjustment is most difficult for children placed with strangers(53), for younger children(54) especially if the mother had been their only caretaker(55), and for children whose living arrangements changed more than once after their mother's incarceration(56).

The early literature on bonding, while not conclusive, suggests that for babies between six months and two years, abrupt separation from their mothers can be severely physically and psychologically disruptive and even life threatening in extreme cases.(57) There is some reason to believe that failure to bond could affect the child's later life even if the mother and child are

eventually reunited. It has been shown that failure to develop a strong mother/child relationship in the first two years of life is linked to a higher probability of child abuse.(58) It is noteworthy that the bonding literature reviewed for this study concentrated solely on the mother/child bond and therefore included no information on bonding between children and alternate caretakers.

While the mother/child bond is especially important for very young children, it is precisely these children who are most unlikely to see their inmate mothers on a regular basis. Younger children tend to visit their mothers less frequently since they must rely on others to make the arrangements and provide transportation. For these children, "the lack of contact after separation makes their mother's disappearance comparable to loss by death".(59) Recent research does suggest "that the potentially negative consequences of this experience for children" and particularly for younger children "could be minimized...if the separation did not occur abruptly and the children were able to maintain continuing contact with their mothers during the period of incarceration".(60) While there are no conclusive findings known to the author on the importance of the stability and quality of the substitute caregiver, it seems evident that, if the child is placed with one caring person throughout the separation, the child's adjustment could also be facilitated.

Older children frequently have to cope with changes in school, separation from friends, and may bear the brunt of teasing and general stigmatization. These factors frequently contribute to poor school performance(61), emotional withdrawal from their mothers and caretakers(62), a general reduction in curiosity and in their ability to cope with difficult situations.(63) While inmate mothers worry about how their older children will perceive them once the children see their mother in prison, there was no literature uncovered which dealt with the feelings of older children towards prison visits with their mothers. In fact, the literature focusses almost entirely on infants and very young preschool children.

There is also some very speculative evidence that the separation of children from their mothers as a result of incarceration can contribute to an increased probability of delinquency.(64) However, research on this topic tends to be heavily morally biased and as a result often presents maternal absence, criminality and erratic discipline as automatically linked.

The most concrete information we have on the immediate effects of the incarceration of mothers on their children is information on how the child's living arrangements are changed by the mother's imprisonment. Available statistics on children who were living with their

mothers prior to incareration suggest that 75-80% of the children are placed with relatives. The majority of the children are placed with the mother's parents(40-50%), another 20-25% live with the father, and the remaining 5-10% go to live with other relatives. Of the 20% of children who do not live with relatives, about half are placed with friends and neighbours and the other half are place in foster care.(65)

It should be noted that these estimates do not indicate the stability of the arrangement. Anecdotal evidence suggests that when the child is placed with the father, with friends or neighbours, the arrangement frequently does not persist until the mother's release. In addition, because most of the available information is based on data from the United States, there is a heavy concentration of black inmates in the sample. "It has been found that arrangements for child care during the mother's incarceration may vary according to ethnic factors. According to the National Study of Women's Correctional programs, blacks were most likely to rely on their parents to care for their children, rather than their husbands or non-relatives. Indians and whites were more likely to have their children living with their husbands or placed with non-relatives including foster homes."(66) Therefore, it is quite likely that in Canada, since there is a relatively

small black population, more children of inmate mothers may be living with their fathers or in foster care, and may be likely to experience a considerable amount of change in their living arrangements during their mother's incarceration. While some children living in an extended family will also experience disruption in their living arrangements, the literature does suggest that changes in living arrangements where the caregivers are strangers are generally more traumatic.

Much of the research concerning the effects of the mother's incarceration on the children is inconclusive. However, it seems irrefutable that, particularly when the child has been living with her or his mother prior to incarceration, the enforced separation combined with the high level of anxiety and disruption surrounding the arrest and the mother's processing through the criminal justice system, in many cases creates great suffering, confusion and loneliness for the child and may result in a form of psychological imprisonment for the child as great as the physical and psychological imprisonment imposed on the mother.

d. <u>The Cost of the Mother's Incarceration for the Substitute Parent</u>

The emotional and financial costs for the substitute caregiver who is responsible for a child during the

mother's incarceration can also be high. Foster parents are not well paid. More Children's Aid Societies are in some cases giving relatives who care for a child in the mother's absence foster parent salaries, but this practice is still relatively uncommon.

The emotional costs however, are often much higher than the financial costs. The caregiver may become deeply attached to the child during the mother's absence. The caregiver may therefore not want the child to return to his or his mother because of this attachement and because the caregiver may feel a female offender could never be a fit mother. The caregiver may feel that an offender's concern for her maternal role and her interest in the relationship between herself and her child possibly springs more from a preoccupation with her own release and reform than from affection for her child. While this attitude may be appropriate in some cases, it can also close the caregiver to the possibility of a situation where the mother truly cares for the child and where the child would greatly benefit from contact with her or his mother. This attitude can also jeopardize the success of a post-release reunion between mother and child. Ultimately the child's suffering can be increased, and the child's suffering will add to the grief and concern of a substitute parent who truly cares for the child.

These problems are likely to be most pronounced when the separation is a lengthy one, so that the caregiver has more opportunity to become attached to the child, and where the current separation may be only one in a series of previous separations. The difficulties of adjustment for the child and the natural and substitute parents can also be aggravated if the substitute caregiver offers the child a much higher or lower standard of living than the natural mother. Adjustment can also be further complicated if the substitute parent(s) are not from the same cultural heritage as the natural mother and the child. This is a particular problem, for example, with some native offenders and their children. The adjustment problems of native inmates and their children deserve particular emphasis since native women are over-represented in the incarcerated female population. There is evidence that a high proportion of native children are placed in foster care and a significant number of native children are placed in foster homes which do not share the child's cultural background.(67) Offenders and their children from other religious, ethnic and linguistic minorities may also share the additional pain of separation from their cultural roots and practices.

The attitude of the substitute caregiver towards the mother can be crucial not only in the preliminary and

post-release adjustment periods, but can also thwart or facilitate any institutional programs available to encourage mother-child contact during incarceration. The very real concern of many alternate caregivers for the children and the potential ability of many of these caregivers to offer the child a "better" life cannot be minimized. The importance of the alternate caregiver's role and feelings towards the child and the mother and her future cannot be overlooked in any investigation of the social costs involved in the mother/child separation through incarceration. The triad which results can greatly increase the complexity of creative decision-making concerning the future of the female inmate, her children and the role of the alternate parent. However a creative concern with these relationships is essential if the long-term welfare of the mother, the children and the alternate caregiver are to be considered.

D. THE CRIMINAL JUSTICE SYSTEM AND COMMUNITY RESPONSE TO MOTHERS WHO ARE OFFENDERS AND THEIR CHILDREN

a. Government Interest in the Problems of Women Who Are Offenders and Their Children

The Canadian government through recent initiatives and statements has affirmed its interest in the needs and

problems particular to female offenders, and in their specific problems maintaining contact with their families. Through a current initiative focussing on women in conflict with the law, the Ministry of the Solicitor General of Canada has committed itself, "to develop, strengthen and expand community programs and services for women who are, or may be, in conflict with the law and to foster information exchange and heighten community awareness of the needs of women in confict with the law".(68) The principles of the program include, inter alia, recognition of the need to address the social and economic disadvantages of female offenders, to minimize the disadvantages of women in custody far from their families and communities and to recognize the importance of new and innovative programs.(69)

This commitment was reaffirmed at the recent Seventh United National Conference on Crime Prevention and the Treatment of the Offender, at which Canada repeated its interest in "fair and equitable justice processes for women" and particularly in the specific problems of regionalization and family contact.(70)

Many of the issues addressed in this paper were identified in the report of an advisory committee on the female offender created by the Canadian Penitentiary Service and National Parole Service. This report, released

in 1977, "highlighted the need to assure women at the time of their arrest that they would be able to make interim and longer term child care arrangements as necessary, the need to study the effects of incarceration on a pregnant women or a mother of small children, the effects on the children of having their mothers in custody for varying lengths of time, and the possibility of allowing small children to live in institutions or to have extended visits with their mothers. Recognizing the limits of existing Canadian institutions, the committee also suggested the possibility of alternative community-based facilities to allow for a variety of formats and to respond to the true rehabilitation needs of women prisoners".(71)

The federal government's growing commitment to the problems of female offenders and their need to maintain contact with their families, can help promote a constructive dialogue with the larger criminal justice community across Canada and internationally, which is also experimenting with and considering the implications of programs to facilitate contact between female offender and their children. These implications range from concerns with staffing, security, discipline, costs, staff training, inmate training and work options, physical facilities within the institution, and disruption in the routine of the institution, to the community perception of the

program, as well as more philosophical questions concerning containment, rehabilitation, equity, fairness and the short as well as long term effects of various types of programs on the inmates, their children and other members of their families. These concerns all focus around the central question of whether contact should be facilitated primarily through institutional programs or through non-incarcerative sentencing options combined with more widespread residential programs and community support services.

b. Federal Government Programs to Facilitate Family Contact

Current programs provided by the federal government are limited, but there does appear to be interest among federal corrections officials in the maintainance of contact between prisoners and their children as well as a recognized need for research.

The Prison for Women in Kingston, can help to facilitate contact over great distances between inmate mothers and their children through several programs. Offenders can buy videotapes and videotape messages to their families through a special program coordinated through the Knights of Columbus who also provide videotape equipment for family members. Inmates are permitted a monthly, free, six-minute, long distance telephone call.

Informal visits between mothers and their children, with no physical barrier to inhibit personal contact, can be arranged in the chapel area for up to a full day through special applications by the inmates. In addition, a bungalow located on the grounds of the institution is available for family visits between some inmate mothers and their children for up to seventy-two hours per visit as often as once every three months. To be eligible for the Family Visiting Unit, the offender must have been at the Prison for six months, have received a supporting community assessment, be charge free, and not be in an unescorted temporary absence or day parole program. Of course, inmate mothers can also take advantage of the general weekly visiting privileges, but these privileges tend to be of primary benefit to offenders whose families live close to the institution. As well, twice a year the Prison allows the inmate committee to sponsor Family Days. On these days the institution is open from eight to nine hours to family and friends who are registered on the inmates' visiting lists and whom the inmates choose to invite. Eligibility to participate in Family Days depends on the inmate's behaviour. The inmates pay for all the food, decorations and entertainment. During Family Days the inmates can spend two periods of one hour each along with their children. The rest of the day is spent in group settings. Separate Family Days are arranged for inmates in protective

custody, and these inmates also have access to all the visiting programs described above.

In addition, the Chaplain at the prison in Kingston has taken a proactive stand in establishing informal and innovative care arrangements in Kingston for a few young children of mothers who are inmates.(72) This is not an official prison program, but simply reflects the good will of the Chaplain and some of the residents of Kingston.

The prison may, as well, in some cases, pay the transportation costs and grant an escorted temporary absence for a mother to attend a custody hearing when termination of the mother's custody is being considered.

Nutritional and medical counselling is also available to pregnant women through the prison doctor and dietician, and through gynecologists at an external hospital. Women are taken to a local hospital to give birth, but it is not possible for the women to bring their babies back to the institution with them.

c. Provincial Government Programs to Facilitate Family Contact

Most provincial institutions have some programs to encourage contact between offenders and their families, although the programs vary considerably in terms of the

degree of contact facilitated. Most institutions make arrangements for pregnant inmates to leave the institution to give birth and will, whenever possible, arrange for an early release to a residential facility, following the birth, for the remainder of the sentence.

Many institutions also try to make arrangements, usually through area social workers, to provide transportation or funds for transportation to enable children to visit their mothers. In some communities, local residents open their homes to these children to enable them to stay in the community and to spend as much time as possible with their mothers. Other institutions have increased the flexibility of their visiting regulations to maximize the number and quality of visits between mothers and their children. For example, the staff at Pinegrove Correctional Centre for Women, in Prince Albert, Saskatchewan, recently took some inmate mothers and their children on a camping weekend in a nearby Mennonite community.

In general, provincial prisons do not routinely allow women to keep infants or young children in prison with them. Receptivity to this idea appears to be growing however. There are currently two programs, one at Twin Maples Correctional Centre for Women in Maple Ridge, British Columbia and the other at Portage Correctional

Centre for Women in Manitoba, which officially allow mothers to keep their children with them. Other institutions report that on occasion this has been allowed, and at least one other provincial institution is considering a live-in program for the future.

Twin Maples Correctional Centre for Women, British Columbia

Twin Maples Correctional Centre for Women offers a unique residential and training program for female inmates and their children. Since 1973, it has been a temporary home for seventy-two children of inmates, twenty of whom were born during the mother's incarceration. Expectant mothers are given a medical temporary absence to give birth in a hospital and then mother and child are returned to the institution. A child will be considered for the live-in program if he or she will be under two years of age at the time of the mother's release from custody.

Eligibility for the program depends on more than just the age of the child or the fact that an inmate gave birth while serving her sentence at this correctional centre. The Twin Maples staff must also give the mother a positive evaluation regarding her physical and mental health. In addition, the mother must have no involvement with drugs. Approval must also be granted by the Local Director, Corrections Branch.

The program can accommodate only three children at one time, since there are only three single rooms in the facility and it is believed that ideally a single room helps a mother establish the baby's routine. In addition, the institutional staff escorts mothers and babies weekly to parenting courses offered in the local community, and the expectant mothers are taken to prenatal courses. Regular medical visits are provided for the children by the public health nurse. Pregnant women are examined weekly by a doctor and arrangements are made for medical specialists if the woman requires specialized care.

Since 1981, in addition to the residential program, Twin Maples has also operated a licensed Family Day Care Center, which serves the community, but is available to be used by the inmate mothers. Through the double-focus of the program, the staff attempts to encourage bonding and contact between mother and child, to teach parenting skills, to ensure that the mother and child have the best possible pre and post-natal medical attention, and generally to help the woman develop a practical and realistic release plan for herself and her child.

There is widespread agreement in the criminal justice community that this is an excellent program, but workers at this and other institutions and community contacts pointed out the fact that Twin Maples is a minimum

security institution and it has an exceptional physical ambience which may contribute greatly to the success of the program and reduce the potential to apply this model directly to other institutions. Some curiosity was expressed regarding the attitude of inmates to parenting courses, jealousy among other inmates with older children who are not eligible for the program, how fully the limit of three children in residence at one time meets the demand, and whether the initial evaluation regarding mental health could exclude some of the most caring mothers since they may be most likely to be emotionally distraught. Some contacts also questioned whether we need institutional programs for minimum security inmates and their institutional programs for minimum security inmates and their children, or whether we could more profitably look at expanding residential programs for inmate mothers and their children.

Portage Correctional Centre for Women

The program at Portage Correctional Centre for Women began five years ago and has in that time allowed twenty-five women to keep their infants in the institution. The rule of thumb is that the infant will be no older than ten months upon the woman's release, but slight exceptions to that rule have been made in the past.

The physical layout of the institution was the major factor in setting this age limit, since officials felt that the heavy doors and great number of stairs would pose a serious safety hazard to a mobile child. While the institution has accommodated as many as five infants at one time, the general limit is three. There are no special facilities for the children at present. While staff have considered setting up a day care program, physical limitations of the building and the necessity of having a trained day care worker to run the center, have to date made this option financially out of reach.

In general, interest expressed by criminal justice and community workers in these two existing institutional live-in programs for women inmates and their children, and in other similar programs outside Canada, has been accompanied by a concern that we not look just at institutional programs, but explore community residential options as well. In addition, workers recognized the vital need for research to provide hard facts in order to plan and evaluate future as well as existing programs.

d. <u>The Current Lack of Residential Facilities for Mothers and Children</u>

At present the interest expressed in exploring community residential options for female offenders and their children faces serious practical barriers. Many of

the institutional and community workers who provided information for this report stressed that there are virtually no residential facilities which will accept women with their children. This lack of residential facilities may threaten exploration of sentencing alternatives. It may also compromise the effectiveness of institutional programs that do exist, by forcing a post-incarcerative separation between some mothers who are not released directly into the community and their children.

Currently, those residences that do accept children are primarily community-based residences for specific non-offender target groups. They include transition houses for battered women, drug and alcohol treatment centres and general residential facilities run by religious organizations. Released offenders and their children usually can be accepted by these residential facilities on a sporadic and short-term basis and the residences may not be able or willing to comply with the criminal justice system's concerns for follow-up or security precautions.

e. Social Service and Community Programs to Promote Family Contact

Most institutional agents contacted stressed the positive and cooperative relationship they had with local

social workers. Some mentioned that if a mother is concerned that her child is not being taken care of, local social workers will liaise with social workers across the province. However, it was commonly stressed that individual discretion and motivation, not official policy, is behind innovative local programs. This means that there may be considerable variation in the types of programs and the degree of cooperation offered by local social services. Many child welfare societies are promoting contact between foster mothers, natural mothers and their children, through regular meetings and discussions, or are encouraging relatives or friends to take temprorary custody of the children, sometimes with the help of foster parent wages. Others continue the prevalent past practice of more traditional foster care with strangers based on the assumption that the mother will probably not regain custody of her children.

There is a growing recognition that many of the needs and problems of inmates are shared by other groups of women in society. This recognition has contributed to an increased interest within provincial institutions in encouraging the involvement of community groups with inmates and in facilitating a cooperative relationship between institutional personnel and community workers. Particular mention was made of the importance of community

contact for native offenders since they have been more likely to lose their children to the child welfare system, and so need community support. In addition, it was reported that native women tend to rely more heavily on community networks than do non-native women.

A number of community groups are currently active in promoting mother-child contact and better parenting skills. The Elizabeth Fry Society in many locations is involved in trying to help the woman offender make long-term child care arrangements before sentencing, promoting and offering parenting courses, and facilitating visits between mothers and their children and between foster parents and natural mothers. Some local Elizabeth Fry Society members also discuss with pregnant inmates their health problems and their plans for their children, and workers provide babysitting if required while women are in court. In addition, the special problems of mothers who are offenders and their children has been defined as a priority of the Social Issues Committee of the Canadian Association of Elizabeth Fry Societies.

The John Howard Society also helps arrange family visits, provides parenting assistance to women when they are released from prison, and in Saskatchewan, provides accommodation for friends and relatives for $7 a night with no charge for the children.

Church groups in some communities help bring children to see their incarcerated mothers from across the province. They may provide free accommodation to these children while they are visiting their mothers, and, as in the case of the Pinegrove camping expedition, they may prcvide unique facilities for special mother-child programs.

Finally, some native groups similarly facilitate visits and generally help to reintegrate the native offender into the community on release.

This very brief description of the role of the community in no way captures the breadth of services, which are actually and which could be potentially, offered by community groups. Because of the focus of this paper, I have looked only at services directly related to the mother-child relationship. However, the very important role the community plays currently, and the escalated role it might play in the future in providing employment, child care, counselling and homemaker, housing, health and educational support should not be overlooked. Few of these programs are intended specifically for female offenders, but the very universality of the programs offered reaffirms the commonality of female offenders with other women in Canadian society and facilitates the integration of mothers who are offenders and their children into the community.

f. International Concerns and Programs Outside Canada

International interest in the special problems of incarcerated women was reiterated in September, 1985, at the Seventh U.N. Congress on the Prevention of Crime and the Treatment of Offenders, in the recommendation that "recognition should be given to the special problems of women prisoners and the need to provide the means for their solution".(73)

While the specific problems of female offenders who are mothers were not explicitly mentioned, a United Nations survey of programs for female offenders among U.N. member countries found that special programs for female offenders "overwhelmingly related to the maternal prisoner and her unborn child. Thus a number of countries granted a suspension of sentence until after child-birth."(74)

In the U.S.A., Britain, Australia, and West Germany, scattered programs exist for mothers and their young children. Generally, as in Canada, the institutions are minimum security or have a minimum security section, or a separate wing of the building which can be devoted exclusively to the mothers and their children. In most of these institutions, parenting courses are provided as part of the program. Special foster-care programs which encourage contact between foster parents, natural parents and children also exist in the U.S.A. and at least one

American institution runs a nursery school similar to the Day Care Centre run in Twin Maples Correctional Centre.

One institution that did not initially isolate mothers and their children from the rest of the prison population in an attempt to foster an extended family atmosphere, did eventually segregate those inmates involved in the program after a "disturbance" involving a child.(75) This specific program for inmates and their children in Australia was moved briefly to another location, but was ultimately discontinued.

Generally the programs are offered to mothers with infants or with children up to two years of age. In West Germany and in the program in Australia referred to above, children up to three years of age were allowed.

In addition, in Mexico, children can live with their mothers either in prison or in a special penal colony. Columbia also has special facilities for mothers and their children.(76)

Mothers in many developing countries also keep their children in prison with them, but this is generally the result of an absence of social programs and child care alternatives rather than a purposeful government attempt to strengthen inmate family ties.

This overview of international programs is necessarily very general, and much of the information

obtained was quite dated. It should not be seen therefore as a definitive description of international progress in this area, but simply as an indication that other countries have also manifested an interest in the problems of mothers who are offenders and their children.

g. Institutional Characteristics Which Perpetuate the Separation of Female Offenders and Their Children

Support is apparently growing in the Canadian criminal justice system and in the community for programs to maintain and develop relationships between inmate mothers and their children. However, a number of observations about correctional institutions for women in Canada and their policies and programs for female prisoners were repeatedly alluded to in my research as factors that might inihibit the development of mother-child relationships currently and that could impede the development of innovative programs to encourage these relationships. These observations raise important questions which warrant further research.

1. Unlike Canadian male prisoners, women prisoners in Canada have few options for transfer to a geographic location close to family and friends because there is only one federal institution in Canada for women and

limited facilities reserved in provincial institutions for federal female inmates. This means that many female federal offenders are separated from their families by considerable distances which inhibit or even prevent visits, particularly with young children.

Certainly, exchange-of-service agreements negotiated between the federal government and the provinces between 1973 and 1975 have increased the geographic options open to women, but they have not benefitted women from all regions of Canada equally. In 1984, out of a total of 226 women incarcerated under federal sentence, 143 were at the Prison for Women in Kingston, and the remaining 83 were serving their sentences in provincial institutions.(77) However 49 of the 83 women housed in the provinces were in Quebec, another 27 were in either Alberta or British Columbia and there was only one federal female inmate in the Atlantic provinces. This imbalanced distribution has remained essentially unchanged since the exchange-of-service agreements were first signed. In fact, between 1975 and 1984, 60% of the female federal inmates serving their sentences in provincial institutions were serving federal sentences in provincial institutions were serving them in Quebec, another one third were in Alberta or British Columbia

and only 1% were incarcerated in the Atlantic provinces.(78)

2. Because facilities are so limited for female offenders in Canada, women prisoners are often subjected to institutional security rules geared to the highest security classification offender housed in the institution, even when their own security classification is lower. Therefore, "while women in the Prison for Women who are classified as needing minimum security do have extra program and recreational privileges, they must remain in a maximum security facility with all the restrictions thereof".(79) The security classification of the institution itself, rather than that of the inmate may therefore restrict the potential scope of programs to encourage contact between the women and their children.
3. The multi-level security arrangement of many institutions which house female offenders in Canada was also cited by many of the criminal justice system officals I spoke to as a serious deterrent in any plans to accept children into the institution. The security of the child in these circumstances was a prime concern, as was the possibility that the child would be taken hostage by prisoners to gain power over the prison authorities in disputes over prisoner demands.

4. A heavy emphasis on security during childbirth can create an unnecessary invasion of privacy and a generally insensitive attitude towards the mother. There were reports of inmates being closely guarded in the delivery room despite the unlikelihood of an inmate escaping during either labour or delivery.
5. At pre-incarceration stages of the criminal justice system, there appears to be no official policy concerning the children of offenders. The children are simply not the specifically mandated responsibility of any criminal justice system official. Certainly many informal reports cited the impression that most police do consider the presence of children in their dealings with offenders, but because of time constraints, they generally are able only to contact the local children's welfare association - not always the course of action the mother or the children would prefer, depending on the sensitivity and flexibility of the child welfare association in that location. The question of the optimum balance between the discretion of criminal justice agents and official guidelines or policies was also mentioned. Some institutional workers felt strongly that a general emphasis on the helping role of criminal justice agents, combined with focussed training sessions to increase sensitivity and

awareness, would be more effective than the issuing of official guidelines to enforce responsibility.

6. On the whole, institutions do not recognize that for many women, raising their children is their work. As a result, women are not allowed the same temporary absences and parole opportunities as men to pursue their work of raising children.
7. There is almost a total lack of known residences in Canada that are able to accept women offenders with their children. Those that exists, as mentioned earlier, are not primarily for offenders but accept offenders and their children if space permits. There was no information on criminal justice system sponsored residences which would accept female offenders and their children. Without these follow-up facilities much of the benefit of prison programs to encourage contact will be negated, and non-incarcerative sentencing options for female offenders will be severely limited.
8. Finally, and most basically, the criminal justice system incarcerates some women who are not a danger to society. It was also communicated to me that there is a strong feeling that women are incarcerated more often than men for similar offences, and are not given the opportunity to participate in sentencing alternative programs to the same extent as men. While there is no

hard data available on this subject, there are indications in the literature that these observations have also been made in other countries. For example, one author states: "It thus appears that when previous record is taken into consideration, females are more likely to be imprisoned than males....the fact that women are being sentenced to short-terms of imprisonment, where men are handled outside the penal system is illustrated by the large proportion of female offenders serving short sentences".(80) The international literature suggests that this trend towards incarcerative sentences for female offenders is largely attributable to the fact that women are unable to pay their fines and therefore must opt for the incarcerative alternative. Again, no Canadian literature is available to support or refute this contention. However, the fact that observations concerning the frequent use of incarcerative options for women are so common both in Canada and in other countries argues strongly for an in-depth study of sentencing patterns, matching men and women with similar histories. It would also be interesting to discern through research whether the majority of female inmates with short sentences are in fact incarcerated because they could not pay the fine.

The problems of mothers who are offenders are thus rooted in the same problems shared by all female offenders in Canada. Any productive planning for innovative programs to stimulate greater mother-child contact, it is widely agreed, will necessarily have to once again consider these basic and general problems.

E. THE IMPLICATIONS OF AVAILABLE FINDINGS FOR FUTURE RESEARCH

The information currently available on female offenders and their children raises more questions than it answers. The need for research is obvious and is generally supported by criminal justice and community workers across Canada. Several major research questions are suggested by this exploratory study. These are in no way exhaustive, but focus on the major needs identified for the Canadian context.

1. How many mothers who are offenders and their children are there in Canada? What are their ages, sex, living arrangements and financial situations pre, during and post incarceration? What proportion of the women are detained on remand? What proportion are given incarcerative sentences? What proportion of female offenders are incarcerated as a result of default of fine payments? What proportion are sentenced to

probation? What proportion of mothers as compared to non-mothers are denied parole? Where applicable, this information would be disaggregated in terms of federal and provincial programs.

2. What are the official policies of the criminal justice system at federal, provincial and municipal levels for criminal justice agents at all stages of the criminal justice system, concerning female offenders and their children? How does official policy differ from practice? Where policies exist, are there mechanisms to ensure that the policy is implemented? Are there built-in evaluation components? What are the philosophical bases of existing policies?
3. What are the impacts of separation in the long and the short term? This question identifies the need to document the impact of separation on mothers and children from the time of arrest through release from incarceration and includes long-range impacts of these experiences on a child's subsequent development and the mother's adjustment to life outside the institution. The impacts on the foster or alternate caretaker should also be investigated.
4. What are the financial and social costs and the implications for administrative and staff concerns, of institutional programs which:
    a. allow children to live with their mothers,

b. encourage extended and frequent visits between mothers and their children,

c. encourage early release to residential facilities?

5. Why do so few residences in Canada allow children? Are there legislative, municipal by-laws (including housing by-laws) or cost-sharing impediments preventing children from staying in existing residences? Do these impediments affect community as well as criminal justice residences? Would these impediments influence the creation of new residences for women and their children?

6. How many female inmates reunite with their children upon release and how many of these women stay with their children? Does increased contact between the imprisoned mother and her child improve the chances of post-release adjustment by both the mother and children and increase their chances of remaining together? What factors besides this, (including type of incarceration program, length of sentence, etc.) influence the chances of them remaining together?

7. What actions do women offenders take to care for their children through their involvement with the criminal justice system? This question again would look at the entire process from arrest to post-incarcerative release, and would look at concrete actions taken

towards their children as well as adjustment techniques used to cope with being separated from their children.

8. How do women offenders sentenced to probation differ from women sentenced to incarceration in terms of:
    a. their socio-economic characteristics,
    b. their experiences with the criminal justice system
    c. the presence of children?
9. Does the presence of children affect decisions made and action taken by criminal justice agents at different stages in the criminal justice process? Does the presence of children have an effect specifically on classification? While this question is related closely to earlier questions, it would suggest investigation from a different point of view. This question might focus on sentencing practices, but it also suggests research on the roles of police, prosecutors, court workers and parole officers in helping the mother with her child-care problems, and in helping the mother and children practically and emotionally during their involvement with the criminal justice system. Such an investigation would go beyond direct actions and attitudes to explore the effects of criminal justice agents' knowledge of the presence of children on decisions involving such practices as tactical court delays.

10. Do inmate mothers want programs which would:
    a. allow them to keep their children in prison,
    b. facilitate visits with their children,
    c. encourage ultimate responsibility for their children?

    Do inmate perceptions of such programs differ significantly by age, length of sentence, previous convictions, age of children, etc.?

11. What support services exist in the community which could be targetted more broadly to reach female offenders and their children at various stages of their involvement with the criminal justice system?

12. What are the custody and adoption practices in Canada currently with respect ot the children of female offenders? On what philosophy of child and parent welfare are they based? Do they consider the welfare of the foster or substitute parent? What are the implications of these practices for the natural parents, the substitute parents and the children?

13. What types of programs exist in other countries? Can these models be applied to Canadian institutions?

14. How effective are our current institutional programs which accept mothers with their babies? This question overlaps with many of the other questions posed above. It would suggest the need for a through, indepth, longitudinal study of the programs at Twin Maples

Neither program has yet been formally evaluated. The interest in these programs and their apparent success, suggests that such evaluations could help direct future research and programs concerning female offenders and their children.

15. How effective are current institutional programs which encourage contact between mothers and children? Studies to answer this question would look at such sub-issues as: who has access to the programs, how many inmates are even aware of the programs, what types of bureaucratic processes influence access?

16. Does the incarceration of a parent contribute to a continuing cycle of criminality by promoting the delinquency and future criminality of their children and/or by increasing the probability of recidivism of the parent? Are there programs or factors which seem to break this cycle if it exists? Specifically, does length of separation, type and quality of substitute care arrangement, or the amount of contact between the mother and child have any affect on future criminal behaviour of the child? Do these factors affect future criminal behaviour of the parent?

F. CONCLUSION

Despite the many questions which remain unanswered, this exploratory study points to a number of general conclusions. Mothers who are inmates and their children are a group of people who, by virtue of their size and suffering, deserve the attention of Canadians and particularly of those concerned or involved with the criminal justice system. Taking responsibility for a criminal act should not mean being sentenced to separation from their children if the criminal justice system is to encourage eventual reintegration of the offender into society.

There is a unique opportunity in Canada to meet the needs of female offenders and their children. Our large geography means that many female offenders are separated from their children by long distances. The problem of incarcerating mothers is therefore more pronounced in Canada than in many other countries. We also have a relatively small female offender population, the vast majority of which do not pose a threat to the community, to themselves, or to the other people in prison. As a result, we have the incentive and the opportunity, given the small population, to explore truly innovative, high quality, comprehensive services for female offenders and their children, based on a real recognition of the complex

characteristics of different female offenders and their circumstances, for a relatively low cost.

The cost of not addressing the needs of this special group of offenders and their children may be too high in terms of our goals of prevention and fairness. Through an enabling, proactive role, the federal government can facilitate an exploration into the needs of these women and their children. This exploration could help assert the common roots of many of the problems faced by mothers who are offenders, Canadian women generally and female ofenders as a group. Through this assertion, community groups could be encouraged to develop and provide a wide range of services for mothers who are offenders and their children, including parenting courses, counselling, residential programs, child care, transportation, employment counselling, training opportunities and second stage housing.

The problems of mothers who are offenders and their children are not just the responsibility of the criminal justice system. Nevertheless, the criminal justice system does have a responsibility to all Canadians to actively seek out and promote more just, flexible and innovative approaches to punishment and rehabilitation so that mothers who are offenders and their children will no longer be sentenced to separation.

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5. p. 30, Rogers and Carey, also Hoyle-Howieson and Regehr.
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8. Figures were provided by the Statistics Division, Programs Branch, Ministry of the Solicitor General of Canada.
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52. pp. 45 and 46, Baunach.

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56. p. 8, Schneller.

57. p. 140, Hatty; p. 1 Rogers and Carey; Rubenstein and Pederson.

58. Bamford, F.N.

59. p. 63, McGowan and Blumenthal.

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61. p. 121, Stanton.

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